

KELLER ROHRBACK L.L.P.

LAURIE B. ASHTON ①③
 IAN S. BIRK ③
 KENNETH A. BLOCH ③
 KAREN E. BOXX ③
 GRETCHEN FREEMAN CAPPIO ③
 ALISON CHASE ①②
 T. DAVID COPLEY ①③④
 ROB J. CRICHTON ①③
 MAUREEN M. FALECKI ②③
 JULI FARRIS ②③④
 RAYMOND J. FARROW ③
 ERIC J. FIERRO ①
 WILLIAM L. FLEMING ③
 ALISON S. GAFFNEY ③
 GLEN P. GARRISON ③④
 LAURA R. GERBER ③
 MATTHEW M. GEREND ③
 GARY A. GOTTO ①
 BENJAMIN GOULD ②③
 CHRISTOPHER GRAVER ①

MARK A. GRIFFIN ①③
 AMY N.L. HANSON ③
 IRENE M. HECHT ③
 SCOTT C. HENDERSON ③
 MICHAEL G. HOWARD ③
 KHESRAW KARMAND ②③④
 DEAN N. KAWAMOTO ②③④
 RON KILGARD ①③④
 KATHRYN M. KNUDSEN ③
 DAVID J. KO ③
 TANYA KORKHOV ③
 ERIC R. LALIBERTE ③
 BENJAMIN J. LANTZ ③
 LUKE M. LARIVIERE ③
 CARI CAMPEN LAUFENBERG ③
 ELIZABETH A. LELAND ③
 JEFFREY LEWIS ②
 TANA LIN ①②③④
 DEREK W. LOESER ③
 HOLLY E. LYNCH ③

RYAN McDEVITT ③
 DANIEL MENSHER ②③
 IAN J. MENSHER ③
 MICHAEL W. MEREDITH ③
 LISA A. NOWLIN ③
 GRETCHEN S. OBRIST ③
 ROBERT S. OVER ③
 DUDLEY B. PANCHOT ③
 LISA FAYE PETAK ②
 DAVID S. PREMINGER ③
 MATTHEW J. PREUSCH ②②
 ERIN M. RILEY ③③
 STEVEN N. ROSS ③
 ISAAC RUIZ ③
 DAVID J. RUSSELL ③
 MARK D. SAMSON ①④
 LYNN LINCOLN SARKO ③④⑤
 WILLIAM C. SMART ③
 CHRISTOPHER L. SPRINGER ②
 THOMAS A. STERKEN ③

PAUL A. TONELLA ③
 BETH M. STROSKY ③
 KARIN B. SWOPE ③
 HAVILA C. UNREIN ②③④
 GABE E. VERDUGO ③
 AMY WILLIAMS-DERRY ③④
 MICHAEL WOERNER ③
 BENSON D. WONG ③
 EDWIN G. WOODWARD ③

① ADMITTED IN ARIZONA
 ② ADMITTED IN CALIFORNIA
 ③ ADMITTED IN COLORADO
 ④ ADMITTED IN IDAHO
 ⑤ ADMITTED IN ILLINOIS
 ⑥ ADMITTED IN MASSACHUSETTS
 ⑦ ADMITTED IN MICHIGAN
 ⑧ ADMITTED IN MINNESOTA
 ⑨ ADMITTED IN MONTANA
 ⑩ ADMITTED IN NEW YORK
 ⑪ ADMITTED IN OHIO
 ⑫ ADMITTED IN OREGON
 ⑬ ADMITTED IN WASHINGTON
 ⑭ ADMITTED IN WASHINGTON, D.C.
 ⑮ ADMITTED IN WISCONSIN

April 28, 2017

VIA ELECTRONIC FILING

The Honorable Brian R. Martinotti, U.S.D.J.
 Clarkson S. Fisher Bldg. & U.S. Courthouse
 402 E. State Street, Room 2020
 Trenton, NJ 08608

The Honorable Lois H. Goodman, U.S.M.J.
 Clarkson S. Fisher Bldg. & U.S. Courthouse
 402 E. State Street, Room 2020
 Trenton, NJ 08608

Re: *In re Insulin Pricing Litigation*, No. 3:17-cv-00699(BRM)(LHG)
Barnett v. Novo Nordisk Inc., et al., No. 3:17-cv-1580(BRM)(LHG)
Boss v. CVS Health Corp., et al., No. 3:17-cv-01823(BRM)(LHG)
Christensen v. Novo Nordisk Inc., et al., No. 3:17-cv-02678(BRM)(LHG)

Dear Judge Martinotti and Judge Goodman:

For the millions of people in the proposed classes who rely on insulin, the single most important consideration here is to assemble the best legal team possible to achieve success. Keller Rohrback L.L.P. (“KR”) has the knowledge, skill, and experience to serve as one of the leaders of this team. Plaintiffs Julia Boss, Ruth Hart, Ruth Johnson, LeAnn Rice, and the Type 1 Diabetes Defense Foundation (collectively, the “Boss Plaintiffs”) therefore respectfully request that the Court appoint KR as one of the Interim Co-Lead Class Counsel for the Insulin Actions, and its co-counsel Critchley, Kinum & DeNoia LLC (“CKD”) as a member of an Executive Committee.

These class actions center around a scheme among the nation’s three largest Pharmacy Benefit Managers (“PBMs”) and the three dominant manufacturers of insulin to drive up the cost of insulin for their mutual benefit. At the center the scheme are the PBMs. As gatekeepers, PBMs decide which insulin is made available to patients through their drug formularies. Although insulin is largely interchangeable, the manufacturers do not compete for the PBMs’ business by trying to offer the lowest price. Instead, they compete by paying “rebates” and other financial incentives to the PBMs, which the PBMs keep or may partially share with their clients. To pay for these rebates, the manufacturers raise the list price of insulin, causing an ever-widening divide between what consumers pay for insulin and what the PBM actually pays for it. The victims of this scheme are people with diabetes who are forced to pay exorbitant amounts—if they can pay at all—for a drug that is neither novel nor unique that they need to stay alive. Most harmed are those with no

Hons. Martinotti and Goodman
April 28, 2017
Page 2

KELLER ROHRBACK L.L.P.

insurance or those with high-deductibles or cost-sharing obligations, who must pay for their insulin at rates tied to inflated list prices.

Keller Rohrbach has extensive experience prosecuting class actions aimed at similar schemes to defraud consumers, and focuses in particular on cases, like this one, with a significant public impact. KR has gone up against PBMs and insurance companies in other cases—in fact, it has four other proposed class actions currently pending against PBMs and insurance companies around the country. It has litigated numerous other cases focusing on pharmaceuticals. And KR has what is perhaps the nation's premier plaintiff-side class action practice involving health care and pension benefit plans, many of which are governed by ERISA.

Keller Rohrbach and its partners have a long track record of success as lead counsel in major class action cases, and we are fully capable of managing a case of this magnitude. But KR is also well known for cooperating with other plaintiffs' counsel, and is ready to do so here with the other counsel submitting applications to the Court to serve as Interim Co-Lead Class Counsel. This is a vitally important case for our clients, and the millions of people in the proposed classes.

I. DISCUSSION

A court “may designate interim counsel to act on behalf of the putative class before determining whether to certify the action as a class action.” Fed. R. Civ. P. 23(g). In appointing class counsel, the court must consider four factors: (i) the work counsel has done in identifying or investigating potential claims in the action; (ii) counsel's experience in handling class actions, other complex litigation, and the types of claims asserted in the action; (iii) counsel's knowledge of the applicable law; and (iv) the resources that counsel will commit to representing the class. Fed. R. Civ. P. 23(g)(1)(A). Further, under Rule 23(g)(2), among the competing applications, KR is the applicant best able to represent the interests of the classes, as described more below.

A court must also ensure that class counsel will “fairly and adequately represent the interests of the class,” and, in order to do so, “may consider any other matter pertinent to counsel's ability.” *Sheinberg v. Sorensen*, 606 F.3d 130, 132-33 (3d Cir. 2010) (citing Fed. R. Civ. P. 23(g)(1)(B) and 23(g)(4)). Here, each factor the Court must consider supports the appointment of Keller Rohrbach.

A. Keller Rohrbach has performed substantial work in identifying and investigating the potential claims in this action.

A meaningful investigation into the facts and legal theory of a case is a significant factor in determining interim lead class counsel. *See In re Cmty. Bank of N. Va.*, 622 F.3d 275, 306 (3d Cir. 2010). That factor weighs in favor of Keller Rohrbach. *See Nowak v. Ford Motor Co.*, 240 F.R.D. 355, 363 (E.D. Mich. 2006) (appointing KR as interim co-lead counsel, and noting that the firm had “demonstrated a commitment to identifying and investigating potential claims in the action”—efforts that had “resulted in a superior draft of a complaint”).

Hons. Martinotti and Goodman

KELLER ROHRBACK L.L.P.

April 28, 2017

Page 3

Keller Rohrbach has taken substantial steps in investigating and bringing this action. It is here where the firm's experience with PBMs, RICO, and ERISA has been crucial. See *infra* at pages 4-8 for more details on that experience. We have been at the forefront of litigation against drug manufacturers and PBMs for driving up prescription drug costs, and have helped develop key legal theories and claims. The rising cost of insulin has been a tremendous concern of our clients. Hagens Berman, to its credit, filed the initial insulin complaint on February 2, 2017. While it detailed the scheme to inflate insulin prices, and appropriately sued the manufacturers, it did not name as defendants the PBMs, which we believe are crucial drivers of the scheme.

Instead of just filing on top of Hagens Berman's complaint, KR met with Hagens Berman at the end of February 2017—before any complaint had been filed that added the PBMs—and discussed working together on a consolidated complaint that included the PBMs. The two firms collaborated on a draft consolidated complaint, but these efforts were suspended on March 14, 2017, when Hagens Berman decided not to add the PBMs. Three days later, Hagens Berman filed its Amended Complaint, Am. Class Action Compl., *In re Insulin Pricing Litig.*, No. 17-cv-00699 (D.N.J. filed Mar. 17, 2017), and Keller Rohrbach filed the *Boss* action, Class Action Compl., *Boss v. CVS Health Corp.*, No. 17-cv-01823 (D.N.J. filed Mar. 17, 2017). We have no objection to working with Hagens Berman in this case, but KR and its clients strongly believe that the PBMs play a central role in the conspiracy and must be named as defendants.

Before filing the *Boss* complaint, Keller Rohrbach worked closely with dedicated and informed clients, including patients, parents, and a diabetes foundation with a commitment to advocating for fairness and transparency in insulin pricing. KR reviewed and analyzed news articles, congressional testimony, expert reports and analysis, pharmacy records, insurance and health plan records, and patient prescription purchase and claim histories. It consulted with several industry experts and thought leaders about the pricing scheme alleged here. And it held extensive interviews and discussions with prospective and current clients, including with the Type 1 Diabetes Defense Foundation—a named Plaintiff in the *Boss* matter and a nonprofit organization dedicated to promoting the social welfare and protecting the legal rights of individuals who must take insulin to survive. We carefully researched and studied the reasons why insulin is now so expensive that many people who need it in this country cannot afford it—a problem that is unique to the United States. Our complaint, which spans over 300 pages reflects our meaningful investigation into the facts and legal theories of our case.

The *Boss* complaint's unique approach also reflects KR's experience litigating RICO, ERISA, and consumer protection claims, and its familiarity with the inner workings of PBMs. Among the pending actions, *Boss* is the *only one* that asserts ERISA and RICO claims against the PBM Defendants.

The *Boss* complaint is also the only action that includes four distinct classes. See *Boss* Compl. ¶ 204. The four classes are necessary to address the different harms imposed upon the different groups of people impacted by Defendants' scheme. For instance, while all four classes assert claims under RICO (as well as under federal antitrust law), the largest group of class members are participants and beneficiaries in employee welfare benefit plans governed by ERISA.

Hons. Martinotti and Goodman

KELLER ROHRBACK L.L.P.

April 28, 2017

Page 4

Together, the PBM Defendants cover roughly 78% of insured Americans, and nearly all ERISA plans contract with PBMs either directly or through a plan administrator or health insurer. *See id.* ¶ 110. These consumers have standing to bring ERISA claims against the PBMs and the Drug Manufacturer Defendants, while the other classes lack that standing. *See id.* ¶¶ 1054-1074. Additionally, the *Boss* complaint features important claims for injunctive relief and future transparency that the other actions do not.

Given Keller Rohrback's extensive investigation into the factual and legal claims against Defendants, the first factor under Rule 23(g) supports appointment of the firm as Interim Co-Lead Class Counsel. Due to the features of its complaint, KR is also best suited under Rule 23(g)(2).

B. Keller Rohrback has significant experience and knowledge of the applicable law.

The second and third Rule 23(g) factors—experience handling class actions, complex litigation, and the types of claims asserted in the action, and counsel's knowledge of the law—demonstrate that Keller Rohrback is well qualified to serve as Interim Co-Lead Class Counsel. KR further satisfies the “best able” standard in Rule 23(g)(2), because KR's experience is both exceptional and well-aligned with *all* aspects of the Insulin Actions.

1. Representative class action experience.

Keller Rohrback possesses both the expertise and experience necessary to litigate a class action with force, efficiency, and success. Space permits only a few examples among many to be highlighted here.

Keller Rohrback attorneys were on the team that tried the civil case arising from the Exxon Valdez oil spill, and achieved an extraordinary outcome for the fishermen, Native Alaskans, and the mandatory punitive-damages class. After the trial, the court appointed Keller Rohrback's managing partner, Lynn Sarko, as the Settlement Administrator, whose job was to allocate and deliver over \$1 billion in class recoveries through the Exxon Qualified Settlement Funds. The court later commented that the firm did “superb” work, and that he could not “imagine that they could possibly have done a better job.”

Keller Rohrback was also appointed co-lead counsel in the *Enron* ERISA litigation. A highlight of *Enron* was the firm's significant development of the case law to benefit thousands of defrauded employees who lost their retirement savings when Enron collapsed. KR negotiated five separate settlements and recovered hundreds of millions of dollars for employees and retirees. Early in the case, Enron sought bankruptcy court protection—and yet with KR's bankruptcy and restructuring expertise, it was able to achieve favorable resolution in both the bankruptcy and federal district courts. The work in *Enron* paved the way for numerous other ERISA cases in which the firm was able to recover over a billion dollars for employees and retirees.

More recently, in the massive litigation over Volkswagen's emissions-cheating scandal, Judge Breyer appointed Mr. Sarko to serve on the Plaintiffs' Steering Committee, on which he

Hons. Martinotti and Goodman
April 28, 2017
Page 5

KELLER ROHRBACK L.L.P.

played a key role throughout the litigation. Last year, the court gave its final approval to an approximately \$15 billion settlement regarding VW and Audi 2.0 liter TDI engines. Plus, earlier this year, the court preliminarily approved a separate settlement for 3.0 liter TDI engines; under this settlement, Volkswagen will pay consumers at least \$1.2 billion, and as much as \$5 billion, to compensate them.

Other notable cases include Keller Rohrbach's class action against Wells Fargo for opening millions of unauthorized accounts for its customers. *See* Consol. Am. Compl., *Jabbari v. Wells Fargo & Co.*, No. 15-cv-02159-VC (N.D. Cal. filed July 30, 2015). Keller Rohrbach partner Derek Loeser led the effort, recently securing a \$142 million class settlement that is pending approval. The firm's dozens of other major litigation successes are detailed in the firm resume, available at <http://www.krcomplexlit.com/wp-content/uploads/2017/04/Full-Resume-04282017.pdf>.

Lynn Sarko, Derek Loeser and Gretchen Obrist—all of whom will be working on this matter—have decades of experience serving as lead counsel in numerous complex cases through all stages of litigation, including trial:

- Lynn L. Sarko is Keller Rohrbach's managing partner and has led the firm's complex litigation and class action practice for over 25 years. He regularly serves as lead counsel in multiparty individual and class action cases involving antitrust, securities, breach of fiduciary duty, and other investment fraud issues. From Exxon and Enron, to Volkswagen, Mr. Sarko has helped recover billions of dollars for consumers and employees. Judges, co-counsel, and opposing counsel respect the high quality of Mr. Sarko's work, his dedication to his clients, his litigation prowess, and his negotiating skills. Courts and professional organizations have honored Mr. Sarko for his work on fiduciary duty, consumer and numerous other high profile public cases.
- Derek W. Loeser is a senior member of Keller Rohrbach's nationally recognized complex litigation and class action group and a member of the firm's Executive Committee. He maintains a national practice prosecuting class action and large scale individual cases. In addition to serving as lead or co-lead counsel in numerous nationally prominent ERISA retirement plan cases (WaMu, Countrywide, AIG), and representing the Federal Home Loan Banks of Boston, Indianapolis and Chicago, in multi-billion-dollar mortgage-backed securities cases against Wall Street banks, he currently serves as co-lead counsel or in a leadership capacity in major class action cases against insurers and PBMs. Through all stages of litigation, including trial, he has helped recover over a billion dollars for his clients. Mr. Loeser is also a frequent speaker at national conferences on class actions, is AV rated by Martindale Hubbell, and has been named as a Super Lawyer in Washington for many years.
- Gretchen S. Obrist is a partner at Keller Rohrbach whose work has helped curtail excessive and conflict-ridden fees in the multi-trillion-dollar retirement savings and health plan industry. She has significant consumer protection experience, such as in an MDL against JPMorgan Chase where KR, as co-lead counsel, was instrumental in achieving a settlement for the class valued at over \$500 million. Most recently, she has been involved in four separate proposed class actions against insurers and PBMs over deceptive schemes that result in inflated prices

Hons. Martinotti and Goodman

KELLER ROHRBACK L.L.P.

April 28, 2017

Page 6

for prescription drugs. The plaintiffs in those cases are asserting RICO, ERISA, and state-law claims. Ms. Obrist is a Plaintiff Co-Chair of the ABA Employee Benefits Committee's Fiduciary Responsibility Subcommittee and frequently speaks at conferences and CLEs.

Further, current and former federal judges who know Keller Rohrbach's work well include the Honorable Charles R. Breyer (N.D. Cal.), the Honorable Gerald E. Rosen, Ret. C.J. (E.D. Mich.), and the Honorable Layn R. Phillips, Ret. (W.D. Okla.).

2. Representative PBM and pharmaceutical experience.

Keller Rohrbach attorneys have recent experience directly relevant to PBMs and pharmaceutical litigation. In June 2016, Keller Rohrbach initiated a class action alleging that Express Scripts Inc. and Anthem overcharged participants for their prescription drugs. *See In re Express Scripts/Anthem ERISA Litigation*, No. 16-3399 (S.D.N.Y.). This litigation involves similar RICO, consumer fraud, and ERISA claims as the insulin cases. Keller Rohrbach has been appointed interim co-lead counsel in the case.

Keller Rohrbach has also recently been appointed to leadership positions in several cases against PBMs arising from a "clawback" scheme in which PBMs unlawfully retain differences between what patients pay and the retail or negotiated price of a prescription drug through a deceptive billing scheme. Specifically, Mr. Loeser has been appointed as Interim Co-Lead Class Counsel in *In re Humana Inc. PBM Litigation*, No. 16-cv-706 (W.D. Ky.), Chair of the Plaintiffs' Executive Committee in *In re UnitedHealth Group PBM Litigation*, No. 16-cv-3352 (D. Minn.), and a member of the Plaintiffs' Executive Committee in *In re CIGNA Corporation PBM Litigation*, No. 16-cv-1702 (D. Conn.). These cases all allege RICO, consumer fraud, and ERISA claims that are similar to the claims asserted in the insulin cases.

Keller Rohrbach is helping to lead cases against drug manufacturers, too. For instance, in *Serrano, et al. v. Mylan N.V. et al.*, No. 16-2711 (D. Kan.), Mr. Sarko was recently appointed Co-Lead Counsel in a case alleging that patients overpay for EpiPen allergy shots in violation of RICO, antitrust, and state consumer protection statutes. *In re Arizona Theranos, Inc., Litigation*, No. 16-2138 (D. Ariz.), KR serves as Co-Lead Counsel in an MDL alleging violations of RICO and state consumer statutes on behalf of patients who faced extreme health risks as a result of faulty blood tests purchased from Theranos, Inc. and Walgreens Boot Alliance.

3. Representative RICO experience.

Keller Rohrbach has decades of experience litigating RICO claims. The massive Volkswagen diesel litigation, for example, involved a complex RICO claim against Volkswagen, Audi, Porsche, Bosch, and a number of corporate officers. *See* Consol. Consumer Class Action Compl. ¶¶ 361-448, *In re Volkswagen "Clean Diesel" Marketing, Sales Practices, & Prods. Liab. Litig.*, MDL 2672 CRB (JSC) (N.D. Cal. filed Feb. 22, 2016).

The PBM cases mentioned above also include RICO claims. Keller Rohrbach's complaints

Hons. Martinotti and Goodman

KELLER ROHRBACK L.L.P.

April 28, 2017

Page 7

allege that the PBMs and insurers have created a joint enterprise that bilks consumers out of their money by artificially inflating prices for prescription drugs, “clawing back” overcharges that PBMs direct pharmacies to collect from patients, *see, e.g.*, Consol. Class Action Compl. ¶¶ 293–330, *In re UnitedHealth Grp. PBM Litig.*; No. 16-cv-3914 (D. Minn. filed Mar. 8, 2017), and in the case of Express Scripts, engaging in a conspiracy to overcharge Anthem insureds billions of dollars for prescription drugs, *see* First Am. Consol. Class Action Compl. ¶¶ 169–213, 272–85, *In re Express Scripts/Anthem ERISA Litig.*, No. 16-cv-03399 (S.D.N.Y. filed Sept. 30, 2016).

4. Representative ERISA experience.

Keller Rohrbach is among the nation’s leading ERISA firms. It boasts among its ranks attorneys who have been litigating ERISA cases since the Act’s passage in 1974, have testified before Congress and Congressional committees on ERISA amendments and pension issues, and have served as editors and authors of ERISA’s most preeminent publications. *See, e.g.*, Jeffrey Lewis et al., *Employee Benefits Law* (3d ed. 2012 & Supp. 2015) (Jeffrey Lewis is the Co-Chair of the Board of Senior Editors; David Preminger and Erin Riley are Senior Editors; Gretchen Obrist is Chapter Editor; all are partners at Keller Rohrbach).

Keller Rohrbach has been appointed lead or co-lead counsel in numerous cutting-edge and large-scale ERISA cases, such as *In re WorldCom, Inc. ERISA Litig.*, No. 02 Civ. 4816 (DLC) (S.D.N.Y.), *In re Enron Corp. ERISA Litig.*, No. 01-3913 (S.D. Tex.), *In re Global Crossing ERISA Litig.*, No. 02 Civ. 7453 (GEL) (S.D.N.Y.), and *In re Bear Stearns Companies ERISA Litig.*, No. 1:08-cv-02804 (RWS) (S.D.N.Y.). In *WorldCom*, Judge Cote recognized that the firm had “performed an important public service,” and had “done so efficiently and with integrity,” working “creatively and diligently to obtain a settlement from WorldCom in the context of complex and difficult legal questions.” *In re WorldCom, Inc. ERISA Litig.*, 2004 WL 2338151, at *10 (S.D.N.Y. Oct. 18, 2004).

In addition to cases over retirement plans, KR has successfully litigated a number of ERISA matters arising out of employee welfare benefit plans—plans like most of those at issue here. For example, in *Turpin v. Consolidated Coal Company*, No. 99-1886 (W.D. Pa.) the firm, alongside co-counsel, achieved a settlement that significantly reformed Blue Cross’s Explanation of Benefit forms so as provide plan participants with a full and fair review of claim denials. In a similarly successful matter—*Dobson v. Hartford Financial Services Group, Inc.*, 389 F.3d 386 (2d Cir. 2004)—an attorney now with Keller Rohrbach served as co-counsel for a putative class of participants in ERISA-covered long-term disability plans. And, after a successful appeal to the Second Circuit, *see Gates v. UnitedHealth Group, Inc.*, 561 F. App’x 73 (2d Cir. 2014), the firm reached a favorable resolution against UnitedHealth Group in an ERISA claim over healthcare benefits. And, as noted above, KR currently is litigating cases all over the country against insurers and PBMs that allege ERISA claims, in addition to RICO and state law causes of action.

The firm’s ERISA litigation practice is very active at all stages of litigation, including trial and appeal. For example, the firm recently obtained affirmance of a 19-day bench trial in which the district court awarded plaintiffs a \$9.6 million judgment, inclusive of attorneys’ fees and

Hons. Martinotti and Goodman
April 28, 2017
Page 8

KELLER ROHRBACK L.L.P.

expenses. *See Perez v. Bruister*, No. 14-60811, 2016 WL 2343009 (5th Cir. May 3, 2016).

C. Keller Rohrbach has the resources to represent the various classes in this case.

Keller Rohrbach is a 73-lawyer firm with the resources and personnel necessary to pursue a case of this magnitude, as it has demonstrated in numerous large-scale class actions. Keller Rohrbach has the financial resources to litigate large cases for years. Keller Rohrbach litigated for years without remuneration of fees and expenses the *Enron* and Exxon Valdez cases. The firm possesses extensive in-house document hosting capabilities and is well-versed in conducting discovery on a nationwide scale. The firm specifically has its own in-house document database team dedicated to housing and organizing large amounts of the electronic data that are regularly part of complex class actions. KR's experience and resources will allow it to streamline the litigation and create efficiencies unavailable to other firms.

D. Critchley, Kinum & DeNoia is well suited to serve on an Executive Committee.

Critchley, Kinum & Denoia, LLC is also well qualified to serve on the Executive Committee. CKD was founded approximately 40 years ago as a boutique litigation firm. CKD devotes a substantial portion of its practice to representing institutions and individuals in complex civil and criminal matters in Federal and State Court throughout the Country. Members of CKD are trial attorneys with significant experience handling complex matters at all stages of litigation, up to and including trial. Peers have been quoted in various publications describing CKD attorneys as "stunning trial lawyer[s]" with "colossal reputation for their experience in the most complex cases" who enjoy a "truly outstanding presence in the courtroom as a result of their track record."

CKD has also successfully collaborated with many of the leading law firms in the country in numerous, high stakes complex litigation matters in New Jersey. For example: (1) *Liquid Aluminum Sulfate Antitrust Litig.* (D.N.J.), in which CKD was appointed to the steering committee by Chief Judge Linares in this pending case alleging price fixing among chemical suppliers; (2) *In re: FieldTurf Artificial Turf Mktg. and Sales Practices Litig.* (D.N.J.), in which CKD represents several plaintiffs in this pending litigation alleging fraudulent marketing of turf fields; and (3) *Merck Sharp & Dohme v. Bristol Myers Squibb* (D.N.J.), in which CKD served as co-counsel for Defendant/Counter-Claimant Bristol Myers Squibb in patent infringement case related to anti-PD-1 immunotherapy treatments for cancer.

CKD also has extensive experience litigating Civil RICO claims and, as such, is particularly well-suited to serve in a leading role in this matter. In *Fairfax Financial v. Contogouris et. al.* (N.J. Sup. Ct.), CKD represented, and obtained a favorable resolution for a key defendant in a \$6 billion Civil RICO matter brought by a Canadian Insurance Company alleging leading hedge funds conspired to the drive company out of business through a scheme to short the company stock. CKD also has considerable expertise in health-related litigation, as reflected by *In re Cooper Health Systems* (D.N.J.), where CKD was lead counsel and negotiated a settlement for the NJ Health System in an investigation conducted by United States Attorneys' Office and the State of New Jersey related to alleged improper payments to doctors for referrals to the Cardiac Unit.

Hons. Martinotti and Goodman
April 28, 2017
Page 9

KELLER ROHRBACK L.L.P.

CKD attorneys are members of several of the leading professional trial organizations in the country and have received numerous recognitions for professional excellence. For example, Michael Critchley, Sr. is a member of the American College of Trial Lawyers, the American Board of Criminal Lawyers, and past president and founder of the Seton Hall University Law School Inn of Court. He has also received numerous recognitions and honors related for his professional accomplishments including an AV rating by Martindale Hubbell and has been named as a Top 100 *SuperLawyer* in New Jersey. Similarly, Michael Critchley, Jr. is AV rated by Martindale Hubbell and has been recognized as a *SuperLawyer* in Securities and Complex Litigation for several years.

E. Proposed Leadership Structure for Lead Counsel.

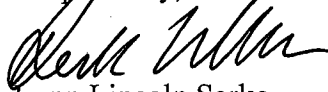
Keller Rohrback prides itself on the high quality of our legal work and our ability to litigate zealously and creatively. Courts, mediators, and co-counsel have recognized our ability to collaborate with other talented lawyers. We take to heart that many class actions benefit from teamwork by plaintiffs' counsel from different firms. We have principled views on how to prosecute this case and, in particular, *whom* to prosecute it against (both the manufacturers *and* the PBMs). We have no doubt that if we are appointed to serve in a leadership role, we can work with other Co-Lead Counsel to ensure that the claims against the PBMs and unique injunctive relief we seek are pursued. Indeed, given the divergence of views on whether to name the PBMs, we suggest a leadership structure for the Insulin Actions in which KR is selected as Interim Co-Lead Class Counsel with primary responsibility for the PBM claims.

Regarding coordination or consolidation of the actions, either approach is workable, particularly with a leadership structure that guarantees that the PBM claims are included in the litigation. Whether in a single consolidated complaint, or coordinated actions, the claims can be litigated efficiently and without duplication under the direction of a well-organized leadership team.

II. CONCLUSION

For the foregoing reasons, the *Boss* Plaintiffs respectfully submit that Keller Rohrback is the best-suited to represent the interests of the classes, particularly regarding the PBM claims, *see* Rule 23(g)(2), and therefore should be appointed Interim Co-Lead Class Counsel. If the Court also appoints an Executive Committee, CKD is well qualified to serve on the committee and should be appointed. KR looks forward to the opportunity to help lead this enormously important case.

Respectfully,



Lynn Lincoln Sarko

Derek W. Loeser

Gretchen S. Obrist

cc: All counsel of record via ECF



REPRESENTATIVE CASES

In re Volkswagen,

MDL No. 2672 (N.D. Cal.)
(Plaintiffs' Steering Committee)

In re Exxon Valdez,

No. 89-0095 (D. Alaska)
(Trial Counsel, Plaintiffs' Steering Committee, and Court-Appointed Administrator of Settlement Funds)

In re Enron Corp.,

MDL No. 1446 (S.D. Tex.)
(ERISA Co-Lead Counsel)

Jabbari v. Wells Fargo,

No. 15-2159 (N.D. Cal.)
(Class Counsel)

In re Express Scripts/Anthem,

No. 16-3399 (S.D.N.Y.)
(Co-Lead Counsel)

Serrano v. Mylan,

No. 16-2711 (D. Kansas)
(Co-Lead Counsel)

In re Arizona Theranos Litig.,

No. 16-2138 (D. Ariz.)
(Co-Lead Counsel)

In re JPMorgan Chase

Mortgage Mod. Litig.,
MDL No. 2290 (D. Mass.)
(Co-Lead Counsel)

In re Delphi Corp.,

MDL No. 1725 (E.D. Mich.)
(ERISA Lead Counsel)

In re HealthSouth Corp.,

No. 03-1700 (N.D. Ala.)
(ERISA Lead Counsel)

In re Polaroid,

No. 03-8335 (S.D.N.Y.)
(ERISA Co-Lead Counsel)

In re WorldCom, Inc.,

No. 02-4816 (S.D.N.Y.)
(ERISA Lead Counsel)

In re Global Crossing,

No. 02-7453 (S.D.N.Y.)
(ERISA Co-Lead Counsel)

WHO WE ARE. Keller Rohrbach's approach is straightforward: we represent clients who have been harmed by conduct that is wrong. We litigate with passion and integrity to obtain the best results possible. Every case is different, but we win for the same reason: we persuade. When you hire us, you hire smart, creative lawyers who are skilled in court and in negotiations.

Founded in 1919, Keller Rohrbach's diverse team of 73 attorneys and over 100 staff members are based in six offices across the country in Seattle, Oakland, New York, Phoenix, Santa Barbara, and Ronan, Montana. Over the past century, our firm has built a distinguished reputation by consistently providing top-notch representation. We offer exceptional service and a comprehensive understanding of federal and state law. We are known for our abilities to work with co-counsel to achieve outstanding results—essential skills in large-scale cases in which several firms represent the plaintiffs. We pride ourselves on our reputation for working effectively with opposing counsel, and we are comfortable and experienced in negotiating high-stakes cases with state, federal, and foreign government investigations. Keller Rohrbach attorneys earn the respect of our colleagues and our opponents through our deft handling of the array of complex issues our clients face.

WHAT WE DO. Keller Rohrbach represents plaintiffs in complex cases of corporate wrongdoing. We litigate against companies that pollute, defraud, fix prices, and take advantage of consumers, employees, and investors. We come from diverse backgrounds and are passionate advocates for justice. Our firm draws strength from attorneys in many practice areas for expertise in bankruptcy and restructuring, constitutional law, corporate transactions, financial institutions, insurance coverage, and intellectual property. We also have many bilingual attorneys, including those fluent in Italian and German. Our firm's access to these in-house resources distinguishes Keller Rohrbach from other plaintiffs' class action firms and contributes to the firm's success. We also work with legal counsel from other countries to vigorously pursue legal remedies on behalf of clients world-wide.

We have won verdicts in state and federal courts throughout the nation and have obtained judgments and settlements on behalf of clients in excess of \$23.25 billion. Courts around the country have praised our work, and we are regularly appointed lead counsel in nationally prominent class actions. Our work has had far-reaching impacts for our clients in a variety of settings and industries, creating fairer markets, a more accountable society, and a cleaner environment.

WHOM WE SERVE. We represent individuals, institutions, and government agencies. Our clients share a desire to see justice done—and to be represented by attorneys who practice law with integrity, honesty, and dedication.